

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



October 28, 2004

Regulation Package #1003-27

CDSS MANUAL LETTER NO. FS-04-06

TO: HOLDERS OF THE FOOD STAMP MANUAL, DIVISION 63

Regulation Package #1003-27**Effective 6/8/04****Section 63-501**

This manual letter has been posted on the Office of Regulations Development website at http://www.dss.cahwnet.gov/ord/FoodStamps_618.htm.

Assembly Bill (AB) 231 (Chapter 743, Statutes of 2003) became effective January 1, 2004. AB 231 adopted Welfare and Institutions Code Section 18901.9 which allowed the California Department of Social Services to align its vehicle resource rules governing the Food Stamp Program with those of an alternative program. Under the authority of this statute, the food stamp regulations were aligned with those of the CalWORKs Child Care Program, and, consequently, vehicles are exempt from being counted as resources when determining food stamp eligibility as allowed in Public Law 106-387, Section 847(a) and Federal Register Volume 68, No. 168, Page 51933 published on August 29, 2003. Emergency regulations were implemented on January 1, 2004 to comply with AB 231 and were included in Manual Letter No. FS-04-01. A few minor nonsubstantial amendments were made to the emergency regulations for clarity and consistency and are reflected in this manual letter.

These regulations were considered at the Department's public hearing held on March 17, 2004.

FILING INSTRUCTIONS

All new revisions are indicated by a vertical line in the left margin. Revisions shown in graphic screen will continue to be shown in that manner until new revisions are done to those pages. The attached pages are to be entered in your copy of the Manual of Policies and Procedures. The latest prior manual letter containing Food Stamp Manual changes was FS-04-05.

Page(s)**Replace(s)**210 and 211
220 through 223Pages 210 and 211
Pages 220 through 223

Attachments

RG

This page was intentionally left blank.

Regulations	FOOD STAMP REGULATIONS ELIGIBILITY DETERMINATIONS	63-501.113
63-500	ELIGIBILITY DETERMINATIONS	63-500
63-501	RESOURCE DETERMINATIONS	63-501

The CWD shall apply the uniform national resource standards of eligibility to all applicant households, except as specified in Sections 63-301.7 and .82.

.1 Definition of Resources

In determining the resources of a household, the following shall be included and documented by the CWD in sufficient detail to permit verification:

- .11 Liquid resources, such as cash on hand, money in checking or savings accounts, savings certificates, trust deeds, notes receivable, stocks or bonds, non-recurring lump sum payments, funds held in individual retirement accounts (IRAs) and funds held in accessible Keogh plans.
 - .111 A nonrecurring lump sum payment includes, but is not limited to, income tax refunds, rebates or credits; retroactive lump-sum social security, railroad retirement benefits, or other payments; retroactive payments from the approval of an application for any assistance program; court ordered retroactive payments for any assistance program; supplemental or corrective payments received for a previous month from any assistance program; lump-sum insurance settlements; or refunds of security deposits on rental property or utilities. These payments shall be counted as resources in the month received, unless specifically excluded from consideration as a resource by other Federal law as specified in Section 63-501.3(l), Section 63-506, or Section 63-507.
 - .112 Accessible Keogh plans are those which are established solely between household members.
 - .113 In counting resources of households with IRAs or accessible Keogh plans, the CWD shall include the total cash value of the account or plan minus the amount of the penalty (if any) that would be exacted for the early withdrawal of the entire amount in the account or plan.

63-501	RESOURCE DETERMINATIONS (Continued)	63-501
---------------	--	---------------

- .12 Nonliquid resources, such as personal property, buildings, land, recreational properties, and any other property, provided that these resources are not specifically excluded under Section 63-501.3. The value of nonexempt resources shall be its equity value. The equity value is the fair market value less encumbrances.

.2 Joint Ownership

- .21 Resources owned jointly by separate households (including non-food stamp households) shall be considered available in their entirety to each household, unless it can be demonstrated by the applicant household that such resources are inaccessible to that household. If the household can demonstrate that it has access to only a portion of the resource, the value of that portion of the resource shall be counted toward the household's resource level. The resource shall be considered totally inaccessible to the household if the resource cannot practically be subdivided and the household's access to the value of the resource is dependent on the agreement of a joint owner who refuses to comply. A resource cannot be practically subdivided if the financial value of the proportionate share would be significantly reduced by sale of only the subdivision. Resources owned jointly by household members and persons in the household who are disqualified or ineligible aliens (who would otherwise be household members) shall be considered available to the household, as required by Section 63-503.44.
- .22 If a resource is jointly held by members of the same food stamp household and one of the members is receiving PA and the other is not receiving PA, then exclude the amount that was counted in determining the PA eligibility.

63-501	RESOURCE DETERMINATIONS (Continued)	63-501
---------------	--	---------------

.42 Resources of students and self-employed household members which are excluded in accordance with Section 63-501.3(i) and are commingled in an account with nonexcluded funds, shall retain their exclusion only for the period of time over which they have been prorated as income.

.43 All other funds excluded as resources which are commingled in an account with nonexcluded funds shall retain their exemption only for six months from the date they are commingled. After six months from the date of commingling, all funds in the commingled account shall be counted as a resource.

.5 Resource Values

| The value of nonexcluded resources shall be its equity value. The equity value is the fair market value less encumbrances.

.51 Renumbered to MPP Section 42-215.41 by Manual Letter Nos. FS-04-01 and EAS-04-01, effective 1/1/04.

.511 Renumbered to MPP Section 42-215.411 by Manual Letter Nos. FS-04-01 and EAS-04-01, effective 1/1/04.

.512 Renumbered to MPP Section 42-215.412 by Manual Letter Nos. FS-04-01 and EAS-04-01, effective 1/1/04.

.513 Renumbered to MPP Section 42-215.413 by Manual Letter Nos. FS-04-01 and EAS-04-01, effective 1/1/04.

HANDBOOK BEGINS HERE

.514 Deleted by Manual Letter No. FS-04-01, effective 1/1/04.

HANDBOOK ENDS HERE

.52 Renumbered to MPP Section 42-215.43 by Manual Letter Nos. FS-04-01 and EAS-04-01, effective 1/1/04.

.521 Renumbered to MPP Section 42-215.431 by Manual Letter Nos. FS-04-01 and EAS-04-01, effective 1/1/04.

.522 Renumbered to MPP Section 42-215.44 by Manual Letter Nos. FS-04-01 and EAS-04-01, effective 1/1/04.

63-501	RESOURCE DETERMINATIONS (Continued)	63-501
---------------	--	---------------

.523 Renumbered to MPP Section 42-215.45 by Manual Letter Nos. FS-04-01 and EAS-04-01, effective 1/1/04.

.524 Renumbered to MPP Section 42-215.46 by Manual Letter Nos. FS-04-01 and EAS-04-01, effective 1/1/04.

HANDBOOK BEGINS HERE

(a) Renumbered to MPP Section 42-215.461 by Manual Letter Nos. FS-04-01 and EAS-04-01, effective 1/1/04.

HANDBOOK ENDS HERE

.525 Repealed by Manual Letter No. FS-04-01, effective 1/1/04.

.53 Renumbered to Section 42-215.42 by Manual Letter No. FS-04-01, effective 1/1/04.

.6 Transfer of Resources

.61 At the time of application, households shall be asked to provide information regarding any resources which any household member or ineligible alien or disqualified person whose resources are considered available to the household has transferred within the three-month period immediately preceding the date of application. Households which have transferred resources knowingly for the purpose of qualifying or attempting to qualify for food stamp benefits shall be disqualified from participation in the program for up to one year from the date of the discovery of the transfer. This disqualification period shall be applied if the resources are transferred knowingly in the three-month period prior to application or if they are transferred knowingly after the household is determined eligible for benefits.

.62 Eligibility for the program shall not be affected by the following transfers:

.621 Resources which would not otherwise affect eligibility, for example, resources consisting of excluded personal property such as furniture or of money that, when added to other nonexempt household resources, totaled less at the time of the transfer than the allowable resource limits;

.622 Resources which are sold or traded at, or near, fair market value;

.623 Resources which are transferred between members of the same household; including ineligible aliens or disqualified persons whose resources are considered available to the household;

63-501	RESOURCE DETERMINATIONS (Continued)	63-501
---------------	--	---------------

- .624 Resources which are transferred for reasons other than qualifying or attempting to qualify for food stamp benefits, for example, a parent placing funds into an educational trust fund described in Section 63-501.3(h).
- .63 Notice Requirements
- .631 In the event the CWD establishes that an applicant household knowingly transferred resources for the purpose of qualifying or attempting to qualify for Food Stamp benefits, the household shall be sent a notice of action denying the application and explaining the reason for the length of the disqualification. The period of disqualification shall begin in the month of application.
- .632 If the household is participating at the time of the discovery of the transfer, a notice of action explaining the reason for and length of the disqualification shall be sent. The period of disqualification shall be made effective with the first allotment to be issued after the period for timely notice has expired, unless the household has requested a state hearing and continued benefits.
- .64 The length of the disqualification period shall be based on the amount by which nonexempt transferred resources, when added to other countable resources, exceeds the allowable resource limits.

HANDBOOK BEGINS HERE

- .641 For example, if a one-person household with \$1,250 in the bank, transferred ownership of a car worth \$5,500, \$1,000 of that transfer would be considered because the first \$4,500 of the car's value is exempt. When that \$1,000 is added to the \$1,250 in the bank and applied toward the \$2,000 resource limit, \$250 is left as excess resources and used to determine the period of disqualification.

HANDBOOK ENDS HERE

63-501	RESOURCE DETERMINATIONS (Continued)	63-501
---------------	--	---------------

.642 The following chart shall be used to determine the period of disqualification.

Amount in Excess of the Resource Limit	Period of Disqualification
\$0 to 249.99.....	1 month
\$250 to 999.99.....	3 months
\$1,000 to 2,999.99.....	6 months
\$3,000 to 4,999.99.....	9 months
\$5,000 or more	12 months

.65 A transfer of assets to qualify for the Program shall not be treated as a fraudulent action in and of itself. However, concealment and misrepresentation of the assets transfer shall constitute fraud and shall be subject to the intentional Program violation provisions of Section 63-805.

.7 Resources of Nonhousehold Members

The resources of nonhousehold members, as defined in Section 63-402.21, shall be handled in accordance with Section 63-503.45.

.8 Resources of Excluded Household Members

The resources of excluded household members, as defined in Sections 63-402.221, .222, .223, and .224, shall be handled in accordance with Section 63-503.44. The income and resources of excluded household members, as defined in Sections 63-402.225, .226, and .227, shall be handled in accordance with Section 63-503.45.

NOTE: Authority cited: Sections 10553, 10554, 11209, and 18904, Welfare and Institutions Code. Reference: Sections 10554, 18901, 18901.9, and 18904, Welfare and Institutions Code; 7 Code of Federal Regulations (CFR) 272.8(e)(17); 7 CFR 273.2(j)(4); 7 CFR 273.8; 7 CFR 273.8(e)(11), (12)(ii), and (18); 7 CFR 273.8(f) and (h); Federal Register Volume 68, No. 168, Page 51933 published on August 29, 2003; Public Law (P.L.) 100-50, Sections 22(e)(4) and 14(27), enacted June 3, 1987; P.L. 101-201; P.L. 101-426, Section 6(h)(2), as specified in United States Department of Agriculture (U.S.D.A.), Food and Nutrition Service (FNS), Administrative Notice (AN) 91-37; P.L. 101-508, Section 11111(b); P.L. 101-624, Section 1715; P.L. 102-237, Section 905, as specified in Federal Administrative Notice 92-12, dated January 9, 1992; Section 2466d., Title 20, United States Code (U.S.C.); 7 U.S.C. 2014(d); 26 U.S.C. 32(j)(5); 42 U.S.C.A. 5122 as amended by P.L. 100-707, Section 105(i); U.S.D.A., FNS, ANs 91-30 and 94-39; Index Policy Memo 90-22, dated July 12, 1990; U.S.D.A., FNS, AN 94-58, dated July 5, 1994; and P.L. 104-193, Sections 810 and 827 (Personal Responsibility and Work Opportunity Reconciliation Act of 1996).